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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,031	03/31/2004	Louis A. Lippincott	ITL1713US (P18841)	9305
21906 7590 01/12/2010 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER				
MARANDI, JAMES R				
ART UNIT		PAPER NUMBER		
2421				
MAIL DATE		DELIVERY MODE		
01/12/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/816,031

**Applicant(s)**

LIPPINCOTT, LOUIS A.

**Examiner**

JAMES R. MARANDI

**Art Unit**

2421

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 21 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2421

/James R. Marandi/  
Examiner, Art Unit 2421

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant reiterates that "Claim 1 inter alia calls for "a rate control unit to adjust a bit rate of an output from said compression block, using quantization data from said decoder." Thus, the claim does not merely call for using quantization data from the decoder, but it calls for using that to adjust a bit rate of an output of the impression [compression] block. That is, it does not call for using quantization data for any purpose, but specifically calls for using it for the purpose claimed, which is adjusting a bit rate of the output from a compression block. Moreover, it specifically calls for using that data "from said decoder."" Page 4 of Remarks, 1st paragraph

Examiner asserts that Nakajima discloses, as in Fig. 2, Section 2.1, pages 408-409) recovering and using quantization data from the decoder (VLD, upon extraction of DCT coefficients, IQNT recovers said DCT coefficient) for the purpose of performing a rate conversion at the output of the compression block (VLC, and the rate converted R2 is outputted)).

Applicant further argues: "Neither of these identified limitations is done in the cited Nakajima reference. Nakajima is explicit that he lowers the bit rate "without decoding to obtain reconstruction [reconstructed] picture." See the first line of Nakajima's abstract. Thus, it is evident that Nakajima includes no decoder and, therefore, cannot fill in the element missing in the cited reference to Moroney." Page 4 of Remarks, 2nd paragraph

Examiner disagrees. The first line of the Nakajima's Abstract indicates that the bit rate conversion is accomplished by not requiring the original bit stream to be decoded into its original pixel domain (reconstructed picture), as further detailed in Section I (introduction), in particular, Page 408, second column, 1st paragraph. Said bitstream (bitstream 1 of Fig. 2) is decoded at VLD (Section 2.1, Page 408, 2nd Col. 5th line from the bottom of the page). Therefore, Nakajima does disclose "a rate control unit to adjust a bit rate of an output from said compression block, using quantization data from said decoder." as analyzed in the office action, and further demonstrated above.

Applicant further argues: "Moreover, Nakajima is not even dealing with adjusting a bit rate of a compression block. There is nothing that suggests that he uses quantization data from anywhere to adjust the bit rate of the output from a compression block." Page 4 of Remarks, 3rd paragraph

Examiner disagrees. The quantization data (Q1) of the bitstream 1 (with rate R1) is extracted at VLD and DCT coefficients recovered at IQNT and fed to the compression block (QNT and VLC) to create the new bitstream2 with rate R2..